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REGION 5
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

'99 JUN 22 P2:46

IN THE MATTER OF:)	
)	
Size Control Company)	Docket No. CAA-5-99-007
Wauconda, Illinois)	
)	Proceeding to Assess an
Respondent.)	Administrative Penalty
)	under Section 113(d) of the
)	Clean Air Act,
_____)	42 U.S.C. § 7413(d)

Consent Agreement and Consent Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, brought this administrative proceeding for the assessment of a civil penalty pursuant to Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), by filing an Administrative Complaint ("Complaint") against Respondent Size Control Company ("Size Control").

Preliminary Statement

2. The Complaint alleges that Size Control violated Section 112 of the Act, 42 U.S.C. § 7412. Specifically, the Complaint alleges that Size Control violated the National Emission Standards for Chromium Emissions from Hard and Decorative Electroplating and Chromium Anodizing Tanks ("Chrome Plating NESHAP"). The Chrome Plating NESHAP regulations are codified at 40 C.F.R. Part 63, Subpart N, §§ 63.340-63.347.

3. Respondent filed an Answer and requested a hearing pursuant to Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2), and Section 22.15 of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits", 40 C.F.R. § 22.15.

4. The parties agree that this matter should be settled without a hearing or further proceedings, upon the terms set forth in this Consent Agreement and Consent Order (CACO).

Consent Agreement

5. Respondent admits the jurisdictional allegations set forth in the Complaint and neither admits nor denies the factual allegations set forth in the Complaint.

6. Respondent waives its right to a hearing, as provided at 40 C.F.R. § 22.15(c), and waives its right to appeal pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d).

7. Respondent certifies that it is in full compliance with the Chrome NESHAP.

8. Respondent and Complainant consent to the terms of this CACO.

9. In consideration of the nature of the violations and other relevant factors, Complainant agrees to mitigate the proposed penalty of \$154,000 to \$44,000.

10. Respondent shall pay the civil penalty of \$44,000 by cashier's or certified check payable to the "Treasurer, United

States of America," not later than forty-five (45) days after the effective date of this CACO.

11. Respondent shall send the payment to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

12. A transmittal letter, indicating Respondent's name, complete address, the case docket number and the billing document number must accompany the payment. Respondent shall write the case docket number and the billing document number on the face of the check. Respondent shall send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk (R-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

James Morris (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

13. The payment specified in paragraph 10. represents civil penalties assessed by U.S. EPA and is not deductible for federal tax purposes.

14. Respondent's failure to comply with any provision of this CACO may subject Respondent to a civil action pursuant to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5), to collect any unpaid portion of the civil penalty with interest, handling charges, nonpayment penalties and the United States's enforcement expenses for collection proceedings. The validity, amount and appropriateness of the assessed penalty are not reviewable in a collection proceeding.

15. Interest shall accrue on any amount overdue from the effective date of this CACO at a rate established pursuant to 26 U.S.C. § 6621(a)(2). Respondent shall pay a monthly handling charge of \$15 for each month that any portion of the assessed penalty is more than thirty (30) days past due. Pursuant to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5), Respondent shall pay a quarterly nonpayment penalty for each quarter during which the assessed penalty is overdue. This nonpayment penalty shall be ten (10) percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

16. This CACO settles U.S. EPA's claims for civil penalties for the violations alleged in the Complaint.

17. Nothing in this CACO shall restrict U.S. EPA's authority to seek Size Control's compliance with the Act and other applicable laws and regulations.

18. This CACO does not affect Size Control's responsibility to comply the Act and other applicable federal, state and local laws and regulations.

19. This CACO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" in determining Size Control's "full compliance history" pursuant to Section 113(e) of the Act, 42 U.S.C. § 7413(e).

20. The terms of this CACO are binding on the Respondent, its officers, directors, employees, agents, servants, authorized representatives, successors and assigns.

21. Each person signing this Consent Agreement certifies that he or she is duly authorized to execute this Consent Agreement by the party whom he or she represents and to bind that party to its terms.

22. Each party shall bear its own costs, fees and disbursements in this action.

23. This CACO constitutes the entire agreement between the parties.

24. The parties to this agreement consent to the entry of this CACO without further notice.

**U.S. Environmental Protection Agency
Complainant**

Date: 6/17/99

By: *Margaret M. Guerriero*
Margaret M. Guerriero, Acting Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

Size Control Company, Respondent

Date: 6-1-99

By: *James Kurtz*
James Kurtz, Environmental Manager
Greenfield Industries,
Parent Company to Size Control
Company

CONSENT AGREEMENT AND CONSENT ORDER

Size Control Company

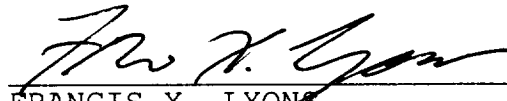
Docket No. CAA-5-99-007

Consent Order

It is ordered as agreed to by the parties and as stated in the Consent Agreement, effective immediately upon filing of this CACO with the Regional Hearing Clerk. This Order disposes of the matter pursuant to 40 C.F.R. § 22.18(c).

Date:

6-18-99



FRANCIS X. LYONS
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Docket No.: 5-CAA-5-99-007

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REGION 5

CERTIFICATE OF FILING AND MAILING

99 JUN 22 P2:46
I, Betty Williams, do hereby certify that the original of the foregoing Consent Agreement and Consent Order (CACO), was sent to Size Control Company, was filed with the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and that a second original of the CACO was sent Certified Mail, Return Receipt Requested, to:

Robert Thomson
Buchanan Ingersoll
One Oxford Center
301 Grant Street, 20th floor
Pittsburgh, PA 15219-1410

I also certify that copies of the CACO were sent by First Class Mail to:

Honorable Charles Bullock
Administrative Law Judge
U.S. EPA
Mail Code A-110
401 M Street, S.W.
Washington, D.C. 20460

Jim Kurtz
Greenfield Industries, Inc.
21 Airport Drive
Rockford, Illinois 61109


Darryl McIntosh, Plant Manager
Size Control Corporation
825 Chase Avenue
Elk Grove Village, Illinois 60007

Robert L. McGeehan, President and CEO
Kennametal, Inc.
1600 Technology Way
LaTrobe, Pennsylvania 15650

David Kolaz, Manager
Compliance and Systems Management Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

Harish Narayen, Acting Regional Manager
Illinois Environmental Protection Agency
Chicago Regional Office
1701 South First Avenue - Suite 1202
Maywood, Illinois 60153

on the 22nd Day of June 1999.


Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: P140779136